



Senate

General Assembly

File No. 77

February Session, 2006

Substitute Senate Bill No. 228

Senate, March 22, 2006

The Committee on Banks reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MORTGAGE PRACTICES AND LICENSING PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-488 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) (1) The commissioner shall not issue a license as a first mortgage
4 lender, a first mortgage correspondent lender or a first mortgage
5 broker to any person unless such person meets the following tangible
6 net worth and experience requirements, as applicable: (A) The
7 minimum tangible net worth requirement for a first mortgage lender
8 shall be two hundred fifty thousand dollars and the minimum tangible
9 net worth requirement for a first mortgage correspondent lender and a
10 first mortgage broker shall be twenty-five thousand dollars, and (B) a
11 mortgage lender shall have, at the location for which the license is
12 sought, a person with supervisory authority over the lending activities
13 who has at least three years' experience in the mortgage lending
14 business within the five years immediately preceding the application

15 for the license and a first mortgage broker shall have, at the location
16 for which the license is sought, a person with supervisory authority
17 over the brokerage activities who has at least three years' experience in
18 the mortgage lending or mortgage brokerage business within the five
19 years immediately preceding the application for the license, provided
20 such experience requirements shall not apply to any person whose
21 license is renewed effective October 1, 2002.

22 (2) Each licensee shall maintain the net worth required by this
23 subsection and shall promptly notify the commissioner if such
24 licensee's net worth falls below the net worth required by this
25 subsection.

26 (b) The commissioner may issue a first mortgage lender license, a
27 first mortgage correspondent lender license, or a first mortgage broker
28 license. Each first mortgage lender licensee may also act as a first
29 mortgage correspondent lender and a first mortgage broker, and each
30 first mortgage correspondent lender licensee may also act as a first
31 mortgage broker. An application for a license or renewal of such
32 license shall be made under oath and on a form provided by the
33 commissioner. The application shall include: (1) The type of license
34 sought; (2) the name and address of the applicant; (3) the location for
35 which the license is sought; (4) the name and address of each member,
36 partner, officer, director, authorized agent and shareholder owning ten
37 per cent or more of the outstanding stock, as applicable; (5) if the
38 applicant is a trust or the lead lender in one or more participation
39 loans, the name and address of each trustee or lead lender and each
40 beneficiary of the trust or other participant lenders in all outstanding
41 participation loans; (6) a financial statement as of a date not more than
42 six months prior to the filing of the application which reflects tangible
43 net worth, and if such financial statement is unaudited, the proprietor,
44 general partner, or duly authorized officer, trustee or member shall
45 swear to its accuracy under oath before a notary public; (7) evidence
46 that the person with supervisory authority over the lending or
47 brokerage activities at the location for which the license is sought
48 meets the experience required by subsection (a) of this section; (8) an

49 application for registration of each originator or prospective originator
50 of the applicant at such location; and (9) such other information
51 pertaining to the applicant, the applicant's background, the
52 background of its principals and employees, and the applicant's
53 activities as the commissioner may require.

54 (c) An application for registration of an originator or renewal of
55 such registration shall be made on a form provided by the
56 commissioner.

57 (d) It shall be considered a violation of section 36a-53a if a licensee
58 files an application for registration of an originator with knowledge
59 that such application contains a material misstatement by an
60 originator.

61 Sec. 2. Section 36a-489 of the general statutes is repealed and the
62 following is substituted in lieu thereof (*Effective from passage*):

63 (a) If the commissioner finds, upon the filing of an application for a
64 license, that the applicant meets the requirements of subsection (a) of
65 section 36a-488, as amended by this act, and that the financial
66 responsibility, character, reputation, integrity and general fitness of the
67 applicant and of the partners thereof if the applicant is a partnership,
68 of the members if the applicant is a limited liability company or
69 association, and of the officers, directors and principal employees if the
70 applicant is a corporation, are such as to warrant belief that the
71 business will be operated soundly and efficiently, in the public interest
72 and consistent with the purposes of sections 36a-485 to 36a-498a,
73 inclusive, as amended by this act, the commissioner may thereupon
74 issue the applicant the license. If the commissioner fails to make such
75 findings, or if the commissioner finds that the applicant has made a
76 material misstatement in [the] such application or in the application for
77 registration of an originator, or files an application for registration of
78 an originator with knowledge that such application contains a material
79 misstatement by an originator, the commissioner shall not issue a
80 license, and shall notify the applicant of the denial and the reasons for
81 such denial. Any denial of an application by the commissioner shall,

82 when applicable, be subject to the provisions of section 46a-80.

83 (b) Upon the filing of an application for registration, the
84 commissioner shall register the originator named in the application
85 unless the commissioner finds that such originator or the applicant has
86 made a material misstatement in the application or that the financial
87 responsibility, character, reputation, integrity and general fitness of
88 [the] such originator [named in the application,] are not such as to
89 warrant belief that granting such registration would be in the public
90 interest and consistent with the purposes of sections 36a-485 to 36a-
91 498a, inclusive, as amended by this act. If the commissioner denies
92 registration, the commissioner shall notify [the] such originator
93 [named in the application] and the applicant filing the application of
94 the denial and the reasons for such denial. Any denial of an
95 application by the commissioner shall, when applicable, be subject to
96 the provisions of section 46a-80. A registration shall remain in force
97 and effect until it has been surrendered, revoked, suspended or expires
98 in accordance with the provisions of sections 36a-485 to 36a-498a,
99 inclusive, as amended by this act.

100 Sec. 3. Subsection (b) of section 36a-490 of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective*
102 *October 1, 2006*):

103 (b) The applicant or licensee shall [promptly] notify the
104 commissioner, in writing, of any change in the information provided
105 in the initial application for license or most recent application for
106 renewal of such license, as applicable, not later than thirty business
107 days after the occurrence of the event that results in such information
108 becoming inaccurate. Each originator named in the application for
109 registration shall notify, in writing, the licensee with whom such
110 originator is associated of any change in the information provided in
111 the initial application for registration or most recent application for
112 renewal of such registration, as applicable, not later than thirty
113 business days after the occurrence of the event that results in such
114 information becoming inaccurate.

115 Sec. 4. Subdivision (2) of subsection (a) of section 36a-491 of the 2006
116 supplement to the general statutes is repealed and the following is
117 substituted in lieu thereof (*Effective October 1, 2006*):

118 (2) A licensee filing an application for registration of an originator
119 shall, at the time of making such application, pay to the commissioner
120 a registration fee of one hundred dollars for each such originator. [,
121 provided if such application is filed not earlier than one year before the
122 date the license of the applicant will expire, the applicant shall pay to
123 the commissioner a registration fee of fifty dollars for such originator.]
124 Each registration shall expire at such time as the licensee's license
125 expires unless such registration is renewed. Such licensee shall file an
126 application for renewal of the registration and pay to the commissioner
127 the appropriate registration fee as provided in this subsection for the
128 succeeding two years, commencing October first.

129 Sec. 5. Subdivision (2) of subsection (a) of section 36a-494 of the 2006
130 supplement to the general statutes is repealed and the following is
131 substituted in lieu thereof (*Effective from passage*):

132 (2) The commissioner may suspend, revoke or refuse to renew any
133 registration of an originator, in accordance with the provisions of
134 section 36a-51, for any reason which would be sufficient grounds for
135 the commissioner to deny an application for a registration under
136 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or if the
137 commissioner finds that the registrant has committed any fraud,
138 misappropriated funds, [or] misrepresented any of the material
139 particulars of any first mortgage loan transaction or has violated any of
140 the provisions of this title or of any regulations adopted pursuant to
141 such title or any other law or regulation applicable to the conduct of
142 such registrant's business.

143 Sec. 6. Section 36a-498 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective from passage*):

145 (a) Except as provided in subsection (c) of this section, every
146 advance fee paid or given, directly or indirectly, to a mortgage lender

147 or first mortgage broker required to be licensed pursuant to sections
148 36a-485 to 36a-498a, inclusive, as amended by this act, shall be
149 refundable.

150 (b) No originator required to be registered pursuant to sections 36a-
151 485 to 36a-498a, inclusive, as amended by this act, shall accept
152 payment of any advance fee except an advance fee on behalf of a
153 licensee. Nothing in this subsection shall be construed as prohibiting
154 the licensee from paying an originator all or part of an advance fee,
155 provided such advance fee paid is not refundable under this section.

156 (c) Subsection (a) of this section shall not apply if: (1) The person
157 providing the advance fee and the mortgage lender or first mortgage
158 broker agree in writing that the advance fee shall not be refundable, in
159 whole or in part; and (2) the written agreement complies in all respects
160 with the provisions of subsection (d) of this section.

161 (d) An agreement under subsection (c) of this section shall meet all
162 of the following requirements to be valid and enforceable: (1) The
163 agreement shall be dated, signed by both parties, and be executed
164 prior to the payment of any advance fee; (2) the agreement shall
165 expressly state the total advance fee required to be paid and any
166 amount of the advance fee that shall not be refundable; (3) the
167 agreement shall clearly and conspicuously state any conditions under
168 which the advance fee will be retained by the licensee; (4) the term
169 "nonrefundable" shall be used to describe each advance fee or portion
170 thereof to which the term is applicable, and shall appear in boldface
171 type in the agreement each time it is used; and (5) the form of the
172 agreement shall (A) be separate from any other forms, contracts, or
173 applications utilized by the licensee, (B) contain a heading in a size
174 equal to at least ten-point boldface type that shall title the form
175 "AGREEMENT CONCERNING NONREFUNDABILITY OF
176 ADVANCE FEE", (C) provide for a duplicate copy which shall be
177 given to the person paying the advance fee at the time of payment of
178 the advance fee, and (D) include such other specifications as the
179 commissioner may by regulation prescribe.

180 (e) An agreement under subsection (c) of this section that does not
181 meet the requirements of subsection (d) of this section shall be
182 voidable at the election of the person paying the advance fee.

183 (f) (1) No mortgage lender or first mortgage broker required to be
184 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as
185 amended by this act, shall enter into an agreement with or otherwise
186 require any person to pay the mortgage lender or first mortgage broker
187 for any fee, commission or other valuable consideration lost as a result
188 of such person failing to consummate a first mortgage loan, provided
189 the mortgage lender or first mortgage broker may collect such fee,
190 commission or consideration as an advance fee subject to the
191 requirements of this section.

192 (2) No first mortgage broker required to be licensed pursuant to
193 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall
194 enter into an agreement with or otherwise require any person to pay
195 the first mortgage broker any fee, commission or other valuable
196 consideration for the prepayment of the principal of a first mortgage
197 loan by such person before the date on which the principal is due.

198 Sec. 7. Section 36a-498a of the general statutes is repealed and the
199 following is substituted in lieu thereof (*Effective from passage*):

200 No licensee under section 36a-489, as amended by this act, and no
201 person exempt from licensure under subdivisions (1), (2), (5) and (6) of
202 section 36a-487 making a first mortgage loan shall charge, impose or
203 cause to be paid, directly or indirectly, prepaid finance charges that
204 exceed in the aggregate, the greater of five per cent of the principal
205 amount of the loan or two thousand dollars. If the proceeds of the loan
206 are used to refinance an existing loan, the aggregate of the prepaid
207 finance charges for the current refinancing and any previous
208 financings by such licensee or exempt person or affiliate of such
209 licensee or exempt person within two years of the current refinancing
210 shall not exceed the greater of five per cent of the principal amount of
211 the initial loan or two thousand dollars. The provisions of this section
212 shall not prohibit such licensee or exempt person from charging,

213 imposing or causing to be paid, directly or indirectly, prepaid finance
214 charges in addition to those permitted by this section in connection
215 with any additional proceeds received by the borrower in the
216 refinancing, provided such prepaid finance charges on the additional
217 proceeds shall not exceed five per cent of the additional proceeds. For
218 purposes of this section, "additional proceeds" has the meaning given
219 to that term in subdivision (3) of section 36a-746e and "prepaid finance
220 charge" has the meaning given to that term in subdivision (7) of section
221 36a-746a.

222 Sec. 8. Section 36a-513 of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective from passage*):

224 (a) (1) The commissioner shall not issue a license as a secondary
225 mortgage lender, a secondary mortgage correspondent lender or a
226 secondary mortgage broker to any person unless such person meets
227 the following tangible net worth and experience requirements, as
228 applicable: (A) The minimum tangible net worth requirement for a
229 secondary mortgage lender shall be one hundred thousand dollars and
230 the minimum tangible net worth requirement for a secondary
231 mortgage correspondent lender and a secondary mortgage broker shall
232 be twenty-five thousand dollars, and (B) a mortgage lender shall have
233 at the location for which the license is sought, a person with
234 supervisory authority over the lending activities who has had at least
235 three years' experience in the mortgage lending business within the
236 five years immediately preceding the application for the license, and a
237 secondary mortgage broker shall have, at the location for which the
238 license is sought, a person with supervisory authority over the
239 brokerage activities who has at least three years' experience in the
240 mortgage lending or mortgage brokerage business within the five
241 years immediately preceding the application for the license, provided
242 such experience requirements shall not apply to any person whose
243 license is renewed effective July 1, 2003.

244 (2) Each licensee shall maintain the net worth required by this
245 subsection and shall promptly notify the commissioner if such

246 licensee's net worth falls below the net worth required by this
247 subsection.

248 (b) The commissioner may issue a secondary mortgage lender
249 license, a secondary mortgage correspondent lender license or a
250 secondary mortgage broker license. Each secondary mortgage lender
251 licensee may also act as a secondary mortgage correspondent lender
252 and a secondary mortgage broker, and each secondary mortgage
253 correspondent lender licensee may also act as a secondary mortgage
254 broker. Any application for a license or renewal of such license shall be
255 under oath and on a form provided by the commissioner. The
256 application shall include: (1) The type of license sought; (2) the name
257 and address of the applicant; (3) the location for which the license is
258 sought; (4) the name and address of each member, partner, officer,
259 director, authorized agent and shareholder owning ten per cent or
260 more of the outstanding stock, as applicable; (5) if the applicant is a
261 trust or the lead lender in one or more participation loans, the name
262 and address of each trustee or lead lender and each beneficiary of the
263 trust or other participant lenders in all outstanding participation loans;
264 (6) a financial statement as of a date not more than six months prior to
265 the filing of the application which reflects tangible net worth, and if
266 such financial statement is unaudited, the proprietor, general partner,
267 or duly authorized officer, trustee or member shall swear to its
268 accuracy under oath before a notary public; (7) evidence that the
269 person with supervisory authority over the lending or brokerage
270 activities at the location for which the license is sought meets the
271 experience required by subsection (a) of this section; (8) an application
272 for registration of each originator or prospective originator of the
273 applicant at such location; and (9) such other information pertaining to
274 the applicant, the applicant's background, the background of its
275 principals and employees and the applicant's activities as the
276 commissioner may require.

277 (c) If the commissioner finds, upon the filing of an application for a
278 license, that the applicant meets the requirements of subsection (a) of
279 this section, and that the financial responsibility, character, reputation,

280 integrity and general fitness of the applicant and of the partners
281 thereof if the applicant is a partnership, of the members if the applicant
282 is a limited liability company or association, and of the officers,
283 directors and principal employees if the applicant is a corporation, are
284 such as to warrant belief that the business will be operated soundly
285 and efficiently, in the public interest and consistent with the purposes
286 of sections 36a-510 to 36a-524, inclusive, as amended by this act, the
287 commissioner may thereupon issue the applicant the license. If the
288 commissioner fails to make such findings, or if the commissioner finds
289 that the applicant made any material misstatement in [the] such
290 application or in the application for registration of an originator, or
291 files an application for registration of an originator with knowledge
292 that such application contains a material misstatement by an
293 originator, the commissioner shall not issue a license, and shall notify
294 the applicant of the denial and the reasons for such denial. Any denial
295 of an application by the commissioner shall, when applicable, be
296 subject to the provisions of section 46a-80.

297 (d) An application for registration or renewal of such registration
298 shall be made on a form provided by the commissioner.

299 (e) Upon the filing of an application for registration, the
300 commissioner shall register the originator named in the application
301 unless the commissioner finds that such originator or the applicant has
302 made any material misstatement in the application or that the financial
303 responsibility, character, reputation, integrity and general fitness of
304 [the] such originator, [named in the application,] are not such as to
305 warrant belief that granting such registration would be in the public
306 interest and consistent with the purposes of sections 36a-510 to 36a-
307 524, inclusive, as amended by this act. If the commissioner denies
308 registration, the commissioner shall notify [the] such originator
309 [named in the application] and the applicant filing the application of
310 the denial and the reasons for such denial. Any denial of an
311 application by the commissioner shall, when applicable, be subject to
312 the provisions of section 46a-80.

313 (f) It shall be considered a violation of section 36a-53a if a licensee
314 files an application for registration of an originator with knowledge
315 that such application contains a material misstatement by an
316 originator.

317 Sec. 9. Subsection (b) of section 36a-514 of the 2006 supplement to
318 the general statutes is repealed and the following is substituted in lieu
319 thereof (*Effective October 1, 2006*):

320 (b) A licensee filing an application for registration of an originator
321 shall, at the time of making such application pay to the commissioner a
322 registration fee of one hundred dollars for each such originator. [
323 provided if such application is filed not earlier than one year before the
324 date the license of the applicant will expire, the applicant shall pay to
325 the commissioner a registration fee of fifty dollars for each originator.]
326 Each registration shall expire at such time as the licensee's license
327 expires unless such registration is renewed. Such licensee shall file an
328 application for renewal of the registration and pay to the commissioner
329 the appropriate registration fee as provided in this subsection for the
330 succeeding two years, commencing October first.

331 Sec. 10. Subsection (b) of section 36a-515 of the general statutes is
332 repealed and the following is substituted in lieu thereof (*Effective*
333 *October 1, 2006*):

334 (b) The applicant or licensee shall [promptly] notify the
335 commissioner, in writing, of any change in the information provided
336 in the initial application for license or most recent application for
337 renewal of such license, as applicable, not later than thirty business
338 days after the occurrence of the event that results in such information
339 becoming inaccurate. Each originator named in the application for
340 registration shall notify, in writing, the licensee with whom such
341 originator is associated of any change in the information provided in
342 the initial application for registration or most recent application for
343 renewal of such registration, as applicable, not later than thirty
344 business days after the occurrence of the event that results in such
345 information becoming inaccurate.

346 Sec. 11. Subdivision (2) of subsection (a) of section 36a-517 of the
347 2006 supplement to the general statutes is repealed and the following
348 is substituted in lieu thereof (*Effective from passage*):

349 (2) The commissioner may suspend, revoke or refuse to renew any
350 registration of an originator, in accordance with the provisions of
351 section 36a-51, for any reason which would be sufficient grounds for
352 the commissioner to deny an application for a registration under
353 sections 36a-510 to 36a-524, inclusive, as amended by this act, or if the
354 commissioner finds that the registrant has committed any fraud,
355 misappropriated funds, [or] misrepresented any of the material
356 particulars of any secondary mortgage loan transaction or has violated
357 any of the provisions of this title or of any regulations adopted
358 pursuant to such title or any other law or regulation applicable to the
359 conduct of such registrant's business.

360 Sec. 12. Section 36a-521 of the general statutes is repealed and the
361 following is substituted in lieu thereof (*Effective from passage*):

362 (a) No person engaged in the secondary mortgage loan business in
363 this state as a mortgage lender, or a secondary mortgage broker,
364 including any licensee under sections 36a-510 to 36a-524, inclusive, as
365 amended by this act, and any person who is exempt from licensing
366 under section 36a-512, may (1) charge, impose or cause to be paid,
367 directly or indirectly, in connection with any secondary mortgage loan
368 transaction, prepaid finance charges that exceed in the aggregate eight
369 per cent of the principal amount of the loan, or (2) include in the loan
370 agreement under which prepaid finance charges have been assessed
371 any provision which permits the mortgage lender to demand payment
372 of the entire loan balance prior to the scheduled maturity, except that
373 such loan agreement may contain a provision which permits the
374 mortgage lender to demand payment of the entire loan balance if any
375 scheduled installment is in default for more than sixty days or if any
376 condition of default set forth in the mortgage note exists. For purposes
377 of this section, "prepaid finance charge" has the meaning given to that
378 term in section 36a-746a.

379 (b) Any mortgage lender who fails to comply with the provisions of
380 this section shall be liable to the borrower in an amount equal to the
381 sum of: (1) The amount by which the total of all prepaid finance
382 charges exceeds eight per cent of the principal amount of the loan; (2)
383 eight per cent of the principal amount of the loan or two thousand five
384 hundred dollars, whichever is less; and (3) the costs incurred by the
385 borrower in bringing an action under this section, including reasonable
386 attorney's fees, as determined by the court, provided no such mortgage
387 lender shall be liable for more than the amount specified in this
388 subsection in a secondary mortgage loan transaction involving more
389 than one borrower.

390 (c) Except as provided in subsection (e) of this section, every
391 advance fee paid or given, directly or indirectly, to a mortgage lender
392 or secondary mortgage broker required to be licensed pursuant to
393 sections 36a-510 to 36a-524, inclusive, as amended by this act, shall be
394 refundable.

395 (d) No originator required to be registered pursuant to sections 36a-
396 510 to 36a-524, inclusive, as amended by this act, shall accept payment
397 of any advance fee except an advance fee on behalf of a licensee.
398 Nothing in this subsection shall be construed as prohibiting the
399 licensee from paying an originator all or part of an advance fee,
400 provided such advance fee paid is not refundable under this section.

401 (e) Subsection (c) of this section shall not apply if: (1) The person
402 providing the advance fee and the licensee agree, in writing, that the
403 advance fee shall not be refundable, in whole or in part; and (2) the
404 written agreement complies in all respects with the provisions of
405 subsection (f) of this section.

406 (f) An agreement under subsection (e) of this section shall meet all
407 of the following requirements to be valid and enforceable: (1) The
408 agreement shall be dated, signed by both parties, and be executed
409 prior to the payment of any advance fee; (2) the agreement shall
410 expressly state the total advance fee required to be paid and any
411 amount of the advance fee that shall not be refundable; (3) the

412 agreement shall clearly and conspicuously state any conditions under
413 which the advance fee will be retained by the licensee; (4) the term
414 "nonrefundable" shall be used to describe each advance fee or portion
415 thereof to which the term is applicable and shall appear in boldface
416 type in the agreement each time it is used; and (5) the form of the
417 agreement shall (A) be separate from any other forms, contracts or
418 applications utilized by the licensee, (B) contain a heading printed in a
419 size equal to at least ten-point boldface type that shall title the form
420 "AGREEMENT CONCERNING NONREFUNDABILITY OF
421 ADVANCE FEE", (C) provide for a duplicate copy, which shall be
422 given to the person paying the advance fee at the time of payment of
423 the advance fee, and (D) include such other specifications as the
424 commissioner may by regulation prescribe.

425 (g) An agreement under subsection (e) of this section that does not
426 meet the requirements of subsection (f) of this section shall be voidable
427 at the election of the person paying the advance fee.

428 (h) (1) No mortgage lender or secondary mortgage broker required
429 to be licensed pursuant to sections 36a-510 to 36a-524, inclusive, as
430 amended by this act, shall enter into an agreement with or otherwise
431 require any person to pay the mortgage lender or secondary mortgage
432 broker for any fee, commission or other valuable consideration lost as
433 a result of such person failing to consummate a secondary mortgage
434 loan, provided the mortgage lender or secondary mortgage broker
435 may collect such fee, commission or consideration as an advance fee
436 subject to the requirements of this section.

437 (2) No secondary mortgage broker required to be licensed pursuant
438 to sections 36a-510 to 36a-524, inclusive, as amended by this act, shall
439 enter into an agreement with or otherwise require any person to pay
440 the secondary mortgage broker any fee, commission or other valuable
441 consideration for the prepayment of the principal of a secondary
442 mortgage loan by such person before the date on which the principal is
443 due.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-488
Sec. 2	<i>from passage</i>	36a-489
Sec. 3	<i>October 1, 2006</i>	36a-490(b)
Sec. 4	<i>October 1, 2006</i>	36a-491(a)(2)
Sec. 5	<i>from passage</i>	36a-494(a)(2)
Sec. 6	<i>from passage</i>	36a-498
Sec. 7	<i>from passage</i>	36a-498a
Sec. 8	<i>from passage</i>	36a-513
Sec. 9	<i>October 1, 2006</i>	36a-514(b)
Sec. 10	<i>October 1, 2006</i>	36a-515(b)
Sec. 11	<i>from passage</i>	36a-517(a)(2)
Sec. 12	<i>from passage</i>	36a-521

BA *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Banking Dept.	BF - Revenue Gain	Significant	Significant

Note: BF=Banking Fund

Municipal Impact: None

Explanation

Under current law, the mortgage originator registration fee could be \$50 or \$100, depending on when the application is filed. The bill makes the originator registration a standard \$100 regardless of when the application is filed. In FY 05, the Banking Department collected \$2,503,800 in mortgage originator license fees. It is anticipated that the fee change will result in a significant revenue gain to the state.

The Out Years

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Banking Dept.	BF - Revenue Gain	Significant	Significant	Significant

Note: BF=Banking Fund

Municipal Impact: None

OLR Bill Analysis
sSB 228

AN ACT CONCERNING MORTGAGE PRACTICES AND LICENSING PROCEDURES.

SUMMARY:

This bill:

1. makes several changes regarding material misstatements in mortgage originator's registration applications;
2. sets a time-frame for originators and first and secondary mortgage lender and broker applicants and licensees to provide notification of changes to information provided in their application;
3. changes the originator registration fee schedule;
4. prohibits first mortgage lenders and brokers from imposing a fee on borrowers for prepaying or failing to close on a loan; and
5. expands the group of lenders prohibited from making excessive prepaid finance charges.

EFFECTIVE DATE: Various

**MATERIAL MISREPRESENTATIONS AND OTHER VIOLATIONS
 (§1, §2, §5, §8, & §11)**

An applicant for a first or second (1) mortgage lender, (2) mortgage correspondent lender, or (3) mortgage broker license must submit an application for registration for each of his originators or prospective originators. The bill makes it a general violation of the banking laws if any of these licensees files an originator registration application knowing that it contains a material misstatement. Under the bill an

applicant's material misstatement in an originator registration application is a basis for denial of these licenses.

The bill also clarifies that a material misstatement is a basis for denial of an originator's registration application if the originator or other applicant makes a material misstatement in it. Current law only addresses such action by the applicant. The bill also makes an originator's violation of any banking laws or any other laws applicable to the conduct of his business, the basis for revocation, suspension, or refusal to renew his registration.

EFFECTIVE DATE: Upon passage

CHANGES TO INFORMATION PROVIDED IN APPLICATIONS (§3 & §10)

The bill requires a first or second (1) mortgage lender, (2) mortgage correspondent lender, or (3) mortgage broker licensee to notify the commissioner of any changes in its application within 30 business days of the change, rather than promptly as required under current law. It also requires originators to notify, in writing, the licensee they work with of any changes to the information in their originator registration application within 30 business days of the change. The bill specifies that this information must be provided in both cases when there are changes to the initial application or most recent renewal application.

EFFECTIVE DATE: October 1, 2006

ORIGINATOR REGISTRATION FEE (§4 & §9)

Under current law, first or second (1) mortgage lenders, (2) mortgage correspondent lenders, or (3) mortgage broker licensees are licensed for a two-year period. The registration fee for originators associated with these licensees is \$50 for a registration period of up to a year and \$100 for a period between one and two years. The bill makes the fee \$100 regardless of when the licensee makes the originator registration application.

EFFECTIVE DATE: October 1, 2006

FEES IMPOSED ON BORROWERS (§6 & §12)

The bill prohibits first and second mortgage lenders and brokers from requiring, by agreement or otherwise, a borrower to compensate them for any fees, commissions, or other valuable consideration lost because the borrower not close on a loan, the ban does not apply to advance fees collected in accordance with the law.

The bill also prohibits such brokers and lenders from imposing any fee, commission, or valuable consideration on a borrower who prepays his loan principal.

EFFECTIVE DATE: Upon passage

PREPAID FINANCE CHARGES (§7)

The law generally prohibits the following groups from charging prepaid finance charges that exceed, in the aggregate, the greater of 5% or \$2000 on a first mortgage loan:

1. first mortgage lenders, correspondent lenders, and brokers;
2. banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions;
3. small loan lenders; and
4. secondary mortgage lenders, correspondent lenders, and brokers.

The bill expands the restrictions on prepaid finance charges to apply to persons making five or fewer first mortgage loans within any period of 12 consecutive months.

EFFECTIVE DATE: Upon passage

BACKGROUND***Originators***

An originator is an individual employed or retained by a first or second mortgage lender or broker to negotiate, solicit, arrange or find

a first or second mortgage loan for, or with the expectation of, a fee, commission, or other valuable consideration.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/09/2006)